

REMARKS

Claims 1, 3-7, 9 and 11-20 are pending in the present application. No additional claims fee is believed to be due.

Claims 2, 8 and 10 are canceled without prejudice.

Claim 1 has been amended to recite that the absorbent material has a first surface and a second surface. Support for the amendment is found in original Claim 1.

Claim 9 has been amended recite that the absorbent material has a first surface and a second surface. Claim 9 has also been amended to recite that a withdrawal means for removal of the tampon is attached to the compressed absorbent member. Support for the amendment is found in original Claim 9 and on page 12, lines 17-34 of the specification.

Claim 13 has been amended to recite that the fluid wicking overwrap comprises a 50% rayon 50% polypropylene thermally bonded blend. Support for this amendment can be found on page 5 lines 11-18.

Claim 17 has been amended to recite that the process for making a tampon may comprise the step of providing a withdrawal means for removal of the tampon. Support for this amendment can be found on page 12, lines 17-20.

Claim 18 has been amended to recite that the process for making a tampon may comprise the step of providing an insertion means for insertion of the tampon. Support for this amendment can be found on page 13, lines 1-5.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Claim Objections

The Office Action states that Claim 1 and Claim 9 have been objected to because there is no antecedent basis for the second surface. Claims 1 and 9 have been amended to recite that the absorbent material has a first surface and a second surface to correct antecedent basis.

Claim 10 has been objected to in the Office Action for lack of antecedent basis for the tissue. Claim 10 has been cancelled without prejudice.

The Office Action states that Claim 13 has been objected to for being a grammatically incorrect sentence. Claim 13 has been amended to recite that the fluid wicking overwrap comprises a 50% rayon 50% polypropylene thermally bonded blend.

In light of the amendments contained herein, Applicants respectfully request reconsideration of all objections to the Claims.

Rejection Under 35 U.S.C. § 112, Second Paragraph

The Office Action states that Claim 8, 9, 17 and 18 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention.

The term “non-aggressive” in Claim 8 has been rejected as indefinite. Claim 8 has been cancelled without prejudice.

The terms “withdrawal means” and “insertion means” as recited by the Applicant in Claims 9, 17 and 18 has been rejected for improper use of the means plus function language because no function language has been associated with the means language. Claim 9 has been amended to recite that a withdrawal means for removal of the tampon is attached to the compressed absorbent member. Claim 17 has been amended to recite that the process for making a tampon may comprise the step of providing a withdrawal means for removal of the tampon. Claim 18 has been amended to recite that the process for making a tampon may comprise the step of providing an insertion means for insertion of the tampon.

In light of the amendments contained herein, Applicants respectfully request reconsideration of all rejections to objections to the Claims 8, 9, 17 and 18 under 35 U.S.C. § 112.

Rejection Under 35 U.S.C. § 102(b) Over Balzar

Claims 1, 2, 7, 9, 14, 16, 17, 19 and 20 are rejected under 35 U.S.C. § 102(b) as being anticipated by Balzar (U.S. Patent No. 5,891,123).

Applicants respectfully traverse the rejection.

The Office Action states that Balzar discloses a tampon and a method of making a tampon, where the tampon is made of absorbent material that is compressed into an absorbent material with surfaces and ends as claimed. The Office Action states that Balzar discloses an overwrap that is fluid wicking and has a skirt portion that substantially covers the exterior surface of the absorbent member and permeates into an inner region as claimed. The Office Action

further states that the length of the skirt is inherent in the disclosure of Balzar. Contrary to the position stated in the Office Action, Balzar does not anticipate the amended independent Claims 1, 9 and 16 because it does not disclose a fluid wicking overwrap extending beyond the withdrawal end of the absorbent material to form a skirt portion.

As amended Claim 1 recites a catamenial tampon that comprises a compressed absorbent member having an inner region and an exterior surface. The compressed absorbent member comprises an absorbent material having a first surface opposed to a second surface, an insertion end opposed to a withdrawal end, and a fluid wicking overwrap substantially covering the first and the second surface of the absorbent material. The fluid wicking overwrap extends beyond the withdrawal end of the absorbent material to form a skirt portion. As amended Claim 9 has the same limitations as Claim 1 but further comprises a withdrawal means for removal of the tampon that is attached to the compressed absorbent member. Claim 16 comprises a method of making the tampon of Claim 1.

Balzar does not teach each and every element in Claim 1, 9 and 16. Balzar discloses a tampon comprising a cover and a flexible finger sheath said to receive the user's finger and prevent soiling of the finger during insertion of the absorbent pledget into a body cavity as well as, providing a means for removing the absorbent pledget from the body cavity. (*See* Balzar, column 12 lines 2-8.) The finger sheath of Balzar does not wick fluid. In fact, the finger sheath of Balzar is fluid impervious and thus has no fluid handling properties such as wicking. (*See* Balzar column 7, lines 20-34). Balzar does not teach or disclose a fluid wicking overwrap that extends beyond the withdrawal end of the absorbent material to form a skirt portion. Therefore, Balzar cannot anticipate the Applicants' Claims 1, 9 and 16. Claim 7 depends from 1. Claim 14 depends from Claim 9. Claims 17 and 19-20 depend from Claim 16. Therefore, Balzar does not render Claims 1, 2, 7, 9, 14, 16, 17, 19 and 20 of the Applicants' present invention unpatentable under 35 U.S.C. § 102 (b).

Rejection Under 35 U.S.C. § 103 (a) Over Balzar in view of Sheldon, et al.

Claims 3, 4, 6, 11 and 15 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Balzar (U.S. Patent No. 5,891,123), in view of Sheldon, et al. (U.S. Patent No. 5,084,038).

The Applicants respectfully traverse the rejection.

The Office Action admits that Balzar does not disclose that the overwrap can be made of natural and synthetic fibers in the claimed ratio. The Office Action state that Balzar lists numerous materials that are suitable for the overwrap and states that natural or synthetic are

suitable, but does not disclose combination of natural and synthetic fibers. It is stated in the Office Action that Sheldon discloses a tampon that has an overwrap covering the absorbent material of the tampon. The Office Action states that Sheldon discloses a particularly useful material can be made of 15% rayon and 85% polyester. It is contended in the Office Action that it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Balzar with the preferred overwrap of Sheldon so that an overwrap with useful characteristics can be obtained in the tampon of Balzar.

As amended Claim 1 recites a catamenial tampon that comprises a compressed absorbent member having an inner region and an exterior surface. The compressed absorbent member comprises an absorbent material having a first surface opposed to a second surface and an insertion end opposed to a withdrawal end and a fluid wicking overwrap substantially covering the first and the second surface of the absorbent material. The fluid wicking overwrap extends beyond the withdrawal end of the absorbent material to form a skirt portion. As amended Claim 9 has the same limitations as Claim 1 but further comprises a withdrawal means for removal of the tampon is attached to the compressed absorbent member. Claim 16 comprises a method of making the tampon of Claim 1.

If one looks to the Applicants' invention and the references as a whole, it is submitted that the combination of Balzar and Sheldon, et al. does not make Applicants' invention obvious. Balzar discloses a tampon comprising a cover and a flexible finger sheath said to receive the user's finger and prevent soiling of the finger during insertion of the absorbent pledget into a body cavity, as well as, providing a means for removing the absorbent pledget from the body cavity. (See Balzar, column 12 lines 2-8.) Balzar states that only certain portions of the covers should be treated or perforated, such that an emollient or surfactant should be applied to only that portion of the cover that surrounds the pledget. Balzar discloses that it is not necessary to perforate the portion of the cover that forms the finger sheath because one does not want body fluid to penetrate through the flexible sheath. Balzar states that it is also not necessary to treat the finger sheath with hydrophilic surfactant. Moreover, Balzar articulates that the flexible finger sheath could be treated to prevent or inhibit fluid penetration with a material such as wax. (See Balzar column 7, lines 20-34) Balzar does not teach or suggest a tampon having skirt portion formed from a fluid wicking overwrap extending beyond the withdrawal end of the absorbent material. In fact Balzar, teaches away from using a fluid wicking material for a flexible finger sheath. If presented with the problem of protecting the user's finger in Balzar, one skilled in the art would not use the wicking material of Sheldon as this would defeat the problem that Balzar is attempting to solve. That is, the wicking material of Sheldon would become wet through upon contact with fluids and allow fluids to contact the user's finger. Thus, Balzar in combination with Sheldon, et al. does

not render the Applicants' Claim 1, 9 and 16 obvious. Claims 3, 4 and 6 depend from 1. Claims 11 and 15 depend from Claim 9. Claims 17-20 depend from Claim 16. Accordingly, Balzar in combination with Sheldon, et al. does not render Claims 3, 4, 6, 11 and 15 of the Applicants' present invention unpatentable under 35 U.S.C. § 103 (a).

Rejection Under 35 U.S.C. § 103 (a) Over Balzar in view of Agyapong, et al.

Claim 13 is rejected under 35 U.S.C. § 103 (a) as being unpatentable over Balzar (U.S. Patent No. 5,891,123), in view of Agyapong, et al. (U.S. Patent No. 6,554,814).

The Applicants respectfully traverse the rejection.

The Office Action states that Balzar does not disclose the overwrap as being a rayon/polyester 50/50 blend. The Office Action states that Agyapong discloses a tampon with an overwrap being particularly made from rayon, polyethylene, polypropylene, and blends of these materials. It is contended in the Office Action that it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the overwrap of Balzar with a rayon/polypropylene overwrap as disclosed by Agyapong to obtain a good overwrap. With respect to the 50/50 blend, the Examiner considers this to be a design choice that is within the purview of one of ordinary skill in the art. A rayon/ polypropylene blend is known in the art and arriving at an optimal ratio of the two materials involves only routine skill in the art.

As amended Claim 9 recites a catamenial tampon comprising a compressed absorbent member having an inner region and an exterior surface. The compressed absorbent member comprises an absorbent material having a first surface opposed to a second surface, an insertion end opposed to a withdrawal end, and a fluid wicking overwrap substantially covering the first and the second surface of the absorbent material. The fluid wicking overwrap extends beyond the withdrawal end of the absorbent material to form a skirt portion. The catamenial tampon of Claim 9 further comprises a withdrawal means for removal of the tampon is attached to the compressed absorbent member. Claim 16 comprises a method of making the tampon of Claim 1.

If one looks to the Applicants' invention and the references as a whole, it is submitted that the combination of Balzar and Agyapong, et al. does not render the Applicants' invention obvious. Balzar discloses a tampon comprising a cover and a flexible finger sheath said to receive the user's finger and prevent soiling of the finger during insertion of the absorbent pledget into a body cavity as well as, providing a means for removing the absorbent pledget from the body cavity. (See Balzar, column 12 lines 2-8.) Balzar states that only certain portions of the covers should be treated or perforated, such that an emollient or surfactant should be applied to only

that portion of the cover that surrounds the pledget. Balzar discloses that it is not necessary to perforate the portion of the cover that forms the sheath because one does not want body fluid to penetrate through the flexible sheath. Balzar states that it is also not necessary to treat the sheath with hydrophilic surfactant. Moreover, Balzar articulates that the flexible sheath could be treated to prevent or inhibit fluid penetration with a material such as wax. (See Balzar column 7, lines 20-34) Balzar does not teach or suggest a tampon having skirt portion formed from a fluid wicking overwrap extending beyond the withdrawal end of the absorbent material. In fact, Balzar teaches away from using a fluid wicking material for a flexible sheath. If presented with the problem of protecting the user's finger in Balzar, one skilled in the art would not use the wicking material of Agyapong as this would defeat the problem that Balzar is attempting to solve. That is, the wicking material of Agyapong would become wet through upon contact with fluids and allow fluids to contact the user's finger. Thus, Balzar in combination with Agyapong, et al. does not render Applicant's independent Claim 9 obvious. Claim 13 depends from Claim 9. Accordingly, Balzar in combination with Agyapong, et al. does not render Claim 13 of the Applicants' present invention unpatentable under 35 U.S.C. § 103 (a).

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdrawal the objections and the rejections under 35 U.S.C. § 112, Second Paragraph, 35 U.S.C. § 102 (b) and U.S.C. § 103. Applicants have made an earnest effort to place their application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, Applicants respectfully request reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1, 3-7, 9 and 11-20. Early and favorable action in the case is respectfully requested.

Respectfully submitted,

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